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REPORT IV

(Supplement)

International Labour Conference

THIRTY-THIRD SESSION

GENEVA, 1950

INDUSTRIAL RELATIONS

Collective Agreements — Conciliation and Arbitration — Co-operation between Public Authorities and Employers' and Workers' Organisations

Fourth Item on the Agenda

GENEVA
International Labour Office
1950

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INTRODUCTION

At its 110th Session (Mysore, January 1950), the Governing Body, giving effect to the desire expressed by the International Labour Conference at its 32nd Session, unanimously decided to place the question of " industrial relations " on the agenda of the 33rd Session of the Conference for a first discussion. This question comprises (1) collective agreements, (2) conciliation and arbitration, and (3) co-operation between public authorities and employers' and workers' organisations.

It may be recalled that at its 30th Session (Geneva, June-July 1947), the Conference drew up an extensive programme for the international regulation of industrial relations, including, in addition to the three subjects mentioned above, the question of freedom of association and the protection of the right to organise, and that of the application of the principles of the right to organise and to bargain collectively.

At its 31st Session (San Francisco, June-July 1948), the Conference completed the first part of its programme by adopting Convention No. 87 concerning freedom of association and protection of the right to organise. The end of the second stage was reached with the adoption, at its 32nd Session (Geneva, June-July 1949), of Convention No. 98 concerning the application of the principles of the right to organise and to bargain collectively.

With regard to the three other subjects, which also appeared on the agenda of the last two sessions of the Conference, the Office, in accordance with the provisions of the Standing Orders of the Conference, had already submitted two reports to the Conference at its 31st Session: a first report on the law and practice of the different countries, containing four questionnaires[1], and a second report in which were set forth and analysed the replies of the Governments to the questionnaires, followed by proposed conclusions drawn up on the basis of those replies.[2]

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[1] International Labour Conference, 31st Session, San Francisco, 1948, Report VIII (1): *Industrial Relations—Application of the Principles of the Right to Organise and to Bargain Collectively, Collective Agreements, Conciliation and Arbitration, and Co-operation between Public Authorities and Employers' and Workers' Organisations* (Geneva, I.L.O., 1947).

[2] *Ibid.*, Report VIII (2) (Geneva, I.L.O., 1948).

The Conference, however, was unable to consider these texts at its last two sessions, and the two reports, therefore, remain for its consideration with a view to a first discussion. The Office has taken the view that it would not be proper for it to alter the proposed conclusions, as they were based on the replies of the Governments to the questionnaires which it had submitted to them. However, it has been considered useful, for the information of the Conference, to supplement the survey of law and practice by a brief analysis of the developments which have taken place since the publication of those reports.

That was the purpose of Report V (Supplement), submitted to the Conference in 1949 [1]; it is also the purpose of the present report, which is, therefore, intended, not to replace the previous reports, but to supplement them on certain points. The first chapter relates to collective agreements, the second to conciliation and arbitration, and the third to co-operation between public authorities and employers' and workers' organisations. The fourth chapter contains the text of the proposed conclusions relating to each of these three questions.

If the Conference considers that certain points are suitable for inclusion in one or more Conventions or Recommendations on these questions, it will adopt such conclusions as it may deem appropriate, and those conclusions will form the basis on which the Office will draw up proposed texts to be submitted to the Governments for their consideration, in order to enable the Conference to take final decisions at its next session.

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[1] International Labour Conference, 32nd Session, Geneva, 1949, Report V (Supplement): *Industrial Relations—Collective Agreements, Conciliation and Arbitration, Co-operation between Public Authorities and Employers' and Workers' Organisations* (Geneva, I.L.O., 1949).

CHAPTER I

COLLECTIVE AGREEMENTS

As stated in the Introduction, since the preparation of the reports on industrial relations submitted to the San Francisco Conference two important international Conventions have been adopted by the Conference: in 1948, Convention No. 87 concerning freedom of association and protection of the right to organise and, in 1949, Convention No. 98 concerning the application of the principles of the right to organise and to bargain collectively.

These Conventions regulate the fundamental right of association—the essential basis of collective bargaining—and ensure the free exercise of that right. Only by such measures is the very existence of employers' and workers' organisations assured; and such organisations form the indispensable foundation of any system of industrial relations. Further, as regards collective agreements, any regulations adopted must presuppose adequate legal recognition of the basic right to negotiate those agreements (*i.e.*, to bargain collectively) as well as of the right of association.

Article 4 of Convention No. 98 has in fact ensured this basic right by providing that measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

It will be observed, however, that this provision, while giving effect to the principle of collective bargaining, does no more than that. Therefore, the question of collective agreements—the result and in fact the whole purpose of collective bargaining—still remains on the agenda of the Conference in accordance with the programme laid down. This question involves such considerations as collective bargaining machinery, the definition, effects, extension and interpretation of collective agreements, the responsibilities of organisations parties thereto, the supervision of the application of collective agreements, etc.

The importance of collective agreements has been stressed from their legal and practical aspect as a complement to the international regulations already adopted. In one form or another, collective agreements are covered by legislation or regulated by established practice in at least 48 countries.[1] In many of these countries [2] provision is being made for the extension of the application of collective agreements to cover non-members of the contracting parties. In short, the practice of fixing terms and conditions of employment by means of collective agreements is spreading steadily, the number of persons covered, either *ab initio* or by legal extension, is constantly increasing and collective agreements are becoming every year a more important factor in the social and economic structure of the nations. In the words of the President of the United States, in his State of the Union Message of 4 January 1950 [3], " free collective bargaining must be protected and encouraged. Collective bargaining is not only a fundamental economic freedom for labour. It is also a strengthening and stabilising influence for our whole economy."

As was indicated in previous reports and especially in the supplementary report [4] submitted to the Geneva Conference in 1949, three main tendencies have been evident in recent years: to adhere to free collective bargaining as a means of fixing wages and other conditions of employment, to restrict collective bargaining to a partial extent by means of wages regulation, or to use collective bargaining as part of a general system of State regulation of wages and other conditions, as under the planned economies of the countries of Eastern Europe.

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[1] Albania, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechoslovakia, Denmark, Ecuador, Finland, France, Germany, Greece, Guatemala, Hungary, India, Iran, Ireland, Israel, Italy, Korea, Japan, Luxembourg, Mexico, the Netherlands, New Zealand, Nicaragua, Norway, Panama, Poland, Portugal, Sweden, Switzerland, Turkey, the Union of South Africa, the United Kingdom, the United States, the U.S.S.R., Venezuela and Yugoslavia.

[2] Australia, Austria, Belgium, Brazil, Canada (Alberta, Quebec, etc.), Colombia, Costa Rica, Ecuador, France, Germany, Greece, Guatemala, Hungary, Ireland, Japan, Luxembourg, Mexico, the Netherlands, New Zealand, Panama, Poland, Portugal, Switzerland, the Union of South Africa and the United Kingdom (by virtue of wartime legislation which is still in force).

[3] UNITED STATES LEGATION, Berne, Press Section: Supplement to *Radio Bulletin*, No. 2, 4 Jan. 1950.

[4] International Labour Conference, 32nd Session, Geneva, 1949, Report V (Supplement): *Industrial Relations—Collective Agreements, Conciliation and Arbitration, Co-operation between Public Authorities and Employers' and Workers' Organisations* (Geneva, I.L.O., 1949).

Free Collective Bargaining as a Means of Fixing Wages and Other Conditions of Employment

The traditional conception of collective agreements in most countries is that they are the means of fixing wages and conditions of employment by free negotiation, governed by the economic strength of the parties and by the law of supply and demand.

But, as was indicated in last year's supplementary report, even in these countries it has been fully recognised that some degree of reasonable stabilisation of wages and prices is necessary if the national economic recovery is to be ensured and if the real purchasing power of wages is to be maintained. The vital need for increasing production without at the same time increasing the costs of production has become even more urgent as the result of the currency devaluation which took place in many of these countries during 1949.

In the supplementary report it was noted that, the Government of the United Kingdom having placed reliance on the employers' and workers' organisations to achieve a voluntary stabilisation of wages and prices, the Federation of British Industries and the Trades Union Congress of 1948 endorsed this policy, the Congress making certain reservations regarding the limitation of profits and prices. This policy has been continued since. In its report to the Congress held at Bridlington from 5 to 9 September 1949, the General Council of the T.U.C. stated—

> At this stage a mere general increase in money wages could not bring idle resources into production and would, therefore, fail to give a higher standard of living . . . the inevitable consequence of any departure at the present time from the policy of moderation and restraint upon which the General Council have been insisting would be disastrous.[1]

Congress endorsed this policy and, in a resolution, pledged " its continued support of the policy aimed at securing the greatest possible measure of restraint in seeking to increase personal incomes and expenditure unrelated to increased productivity ".[2] A special conference of trade union executives representing almost all the 187 affiliated unions, held on 12 January 1950, supported, by a vote of 4,263,000 to 3,606,000, the T.U.C. proposal that

[1] *Report of Proceedings* of the 81st Annual Trades Union Congress, held at Bridlington, 1949, pp. 550-551.
[2] *Ibid.*, p. 553.

present wage arrangements should continue until 1 January 1951 provided that the cost of living did not rise more than 5 per cent.[1]

In his State of the Union Message of 4 January 1950, the President of the United States, as in the previous year, called for the repeal of the Labor-Management Relations Act, 1947[2], and for its replacement by a law " that is fair to all and in harmony with our democratic ideals ".

It is of considerable interest to refer to the decision in 1948 of the National Labor Relations Board, mentioned in last year's supplementary report[3], to the effect that employers might be required by their employees to bargain on pension and retirement plans on the ground that the payment of benefits under such plans falls within the meaning of " wages " under the 1947 Act. This decision should be considered in the light of a recent statement of the Director of the Federal Mediation and Conciliation Service[4], to the effect that the emergence of pension and welfare issues in collective bargaining is one of the significant developments of recent years. He observes that negotiation on these issues first gained prominence during the war and immediately afterwards and during the maintenance of the wage stabilisation programme, when employers who desired to recruit and retain employees and whom the law prevented from giving wage increases consented to welfare and pension benefits in lieu thereof. Since the Board's decision was upheld by the courts in September 1948 the unions have concluded collective agreements containing pension-insurance provisions with companies representing the major part of the steel and coal industries and a large sector of the automobile industry.

Sweden, like the United Kingdom, is relying on free collective bargaining to ensure by mutual restraint the maintenance of a reasonable degree of stabilisation. At its meeting on 2 and 3 November 1949, the Trade Union Confederation decided to recommend the prolongation of all current collective agreements during the year 1950.[5] As a similar decision was taken at the beginning of 1949 in respect of that year, this means that the collective

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[1] *The Times*, London, 13 Jan. 1950, p. 4.

[2] INTERNATIONAL LABOUR OFFICE: *Legislative Series* (hereafter referred to as *L.S.*), 1947, U.S.A. 2.

[3] Report V (Supplement), *op. cit.*, p. 4.

[4] Statement of Mr. Cyrus S. CHING, Director of the Federal Mediation and Conciliation Service, at a Press Conference on 29 Dec. 1949 (released to the morning newspapers on that date).

[5] *Fackförenings-Rörelsen*, 45/1949, p. 337.

agreements mentioned are mainly those which were in force in 1948. The present agreements are subject to certain adjustments in the event of specified changes in the cost of living. The employers endorsed this policy in December 1949 and by 16 January 1950 the affiliated workers' organisations had signified their consent.

In Switzerland, on the other hand, the joint stabilisation agreement concluded between the central organisations of employers and workers, in agreement with the Federal Council[1], which, in the first instance, covered the period 1 February to 31 October 1948 and was then renewed for a further twelve months, finally terminated at the end of October 1949. The final report of the Stabilisation Committee declared that this first attempt at permanent joint co-operation, in the field of price and wage stabilisation, had proved itself.

> With a common object in view, in an experiment which offered a chance of apportioning equally, albeit only approximately, the sacrifices which had to be made, the economic groups have demonstrated a spirit of co-operation which is amazingly developed.[2]

Wages and other conditions of employment are now left entirely to free negotiation and determination by collective agreements.

In the countries of Western Europe, immediately after the war, the Governments found it necessary to exercise control over production, distribution of products, prices and wages. In the meantime the volume of production has considerably increased with the result that a tendency to relax these various controls is becoming increasingly evident. The trend towards free negotiation of wages and other conditions of employment is illustrated by developments in France, Germany, Finland, and Japan during 1949 and the early part of 1950. In Norway, on the other hand, new legislation has not led to much change in the existing situation.

In France, after liberation, wages were fixed by Decrees issued by the Minister of Labour. The Collective Agreements Act, 1946[3], marked a return to negotiation by agreement of conditions of employment, with the exception that wages were still determined by the Government. Prices and exchange were freed in most sectors of the economy and it appeared that the time had returned to authorise the negotiation of wages by agreement. The industrial organisations continued to press the matter and finally

[1] Report V (Supplement), *op. cit.*, p. 8.
[2] *La Lutte syndicale*, Berne, 11 Jan. 1950.
[3] *L.S.*, 1946, Fr. 15.

the Government submitted to Parliament a proposed law concerning collective agreements and the settlement of disputes. When introducing the proposed legislation, the Government drew attention to the increased production achieved by the modernisation of equipment and by the improvement in the workers' output which now permitted a return to free negotiation of wages.

This legislation, which repeals the Collective Agreements Act of 1946, was enacted in February 1950.[1] The Higher Collective Agreements Board *(Commission supérieure des conventions collectives)* set up under the new Act (see below) is to consider the drafting of a model budget for use in determining a "guaranteed minimum national wage to cover all occupations". The "guaranteed minimum wage" will be fixed by a Decree of the Council of Ministers, on the submission of the Minister of Labour and of the Minister for Economic Affairs, and after considering the views of the Higher Collective Agreements Board and general economic conditions. The Decree will be communicated to the International Labour Office. Each year a report will be issued by the Minister of Labour, on action taken by the Higher Collective Agreements Board to promote the determination of a guaranteed minimum wage.

The new Act concerning collective agreements and the settlement of collective labour disputes applies to industrial and commercial occupations, to agricultural occupations as defined by the Decree of 30 October 1935 respecting agricultural associations and to certain persons engaged in occupations connected with agriculture, to the liberal professions, public and Ministerial offices, domestic servants, janitors, home workers, companies, industrial associations and associations generally. In the case of the staff of public undertakings whose conditions of employment are governed by particular legislation or legal regulations, as well as in the case of the staff of other undertakings whose conditions are governed by the same legislation or regulations, the provisions of the Act do not apply. In the absence of such legislation or regulations, collective agreements concerning the conditions of employment of the staffs of public undertakings may be concluded in accordance with the provisions of the Act.

The Act defines a collective agreement as an agreement relating to conditions of employment concluded between one or more

[1] Act No. 50/205 of 11 Feb. 1950, *Journal officiel*, 12 Feb. 1950, No. 38, p. 1688.

workers' organisations and one or more organisations or groups of employers or one or more employers.

Collective agreements are binding on the signatories and on all members of contracting associations. An agreement also binds those associations which subsequently adhere to it and all persons who at any time become members of such associations.

Where an employer is bound by the terms of a collective agreement those terms apply in respect of all contracts of employment concluded with him.

In any establishment included within the scope of a collective agreement the provisions of the agreement may not be derogated from in individual or group contracts of employment except in regard to clauses in such contracts which are more favourable to the worker than the provisions of the collective agreement.

Agreements may be national, regional or local.

With regard to national agreements, at the request of one of the most representative national organisations of employers or workers concerned, or *ex officio*, the Minister of Labour may convene a meeting of a joint committee with a view to the conclusion of a collective agreement determining relations between employers and workers in a particular branch of activity throughout the metropolitan territory. The joint committee consists of representatives of the most representative employers' and workers' organisations for the whole territory. Separate agreements prescribing particular conditions of employment with regard to principal occupational categories may be concluded after discussion by representatives of the organisations most representative in respect of those categories. The representative character of an organisation is determined by reference to its membership, independence of action, contributions, its experience and the number of years it has existed, and its patriotic attitude during the German occupation.

National collective agreements must contain provisions concerning the following:

1. The free exercise of the right to organise and the freedom of opinion of the workers.

2. The elements of the wages applicable to different occupational categories—

(a) the minimum national occupational wage for the unskilled worker or employee;

(b) the ascending coefficients in respect of the different degrees of occupational skill (these coefficients, when applied to the minimum national occupational wage for the unskilled worker or employee, will be used to determine the minimum national wages for the various occupational skills);

(c) bonuses for onerous, dangerous or unhealthy work;

(d) the procedure for application of the principle of equal pay for equal work in the case of women and young persons.

3. Terms of engagement and dismissal which must not be such as to restrict the free choice by the worker of the union to which he shall belong.

4. Period of notice of termination of contract.

5. Staff delegates and works committees and the financing of welfare services conducted by them.

6. Paid holidays.

7. The procedure for revision, modification or denunciation of all or part of the agreement.

8. Agreed conciliation procedure for the settlement of collective disputes which may arise between the employers and workers bound by the agreement.

9. Apprenticeship and vocational training in the branch of activity concerned.

10. Particular conditions of employment with regard to women and young persons in the undertakings concerned.

National agreements may contain, *inter alia*, provisions relating to the following matters: particular conditions of employment (overtime, working on shifts, night work, Sunday work, work on holidays); general conditions regarding remuneration on the basis of output for the categories concerned; bonuses for seniority and regular attendance; compensation for occupational or similar expenses; compensation for travelling expenses; employment of certain categories on shorter hours and the conditions governing their remuneration; agreed arbitration procedures for the settlement of collective disputes which might arise between employers and workers bound by the agreement; supplementary staff pensions schemes.

Regional or local collective agreements may be negotiated by a similar method, except that, in these cases, at the request of one of the most representative organisations for the branch of activity

concerned, the Minister must convene a joint committee. Supplementary agreements may be concluded in respect of the principal occupational categories after discussion by the representatives of the organisations most representative of those categories. Where a national agreement has been concluded for the branch of activity, the regional or local agreements adapt such agreement or certain of its provisions to the particular regional or local conditions and may include new provisions or provisions more favourable to the workers. If there is no national agreement, the aforesaid provisions regarding the contents of national agreements are to be adapted in the case of a regional agreement and, if there is no regional agreement, in the case of a local agreement.

Agreements concerning one or more establishments may be concluded between an employer or group of employers and the unions most representative of the staffs concerned. The purpose of such agreements is to adapt to the particular conditions in the establishments the provisions of national, regional or local agreements, especially conditions regarding allocation and calculation of remuneration based on results and bonuses in respect of individual and collective production. They may contain new clauses or clauses which are more favourable to the workers. If there is no relevant national, regional or local agreement, the agreement for the undertaking may deal only with the fixing of wages and supplementary wage payments.

National, regional or local agreements are capable of being extended. At the request of one of the most representative organisations or *ex officio* and after considering the views of the Higher Collective Agreements Board, the Minister of Labour may, by Decree, declare the agreement binding on all employers and workers included within its occupational and territorial field of application for a period corresponding to the term of the agreement itself. However, after considering the views of the Higher Collective Agreements Board, the Minister may exclude from the extension such provisions of a collective agreement as are contrary to existing law or legal regulations and such provisions as are not appropriate to the situation of the branch of activity and could be excluded without detriment to the agreement.

Before declaring the extension of a collective agreement or cancelling its extension before the expiry of the agreement itself, the Minister of Labour must publish in the *Journal officiel* notice of the proposal with an invitation to the occupational organisations and all persons concerned to make their views on the question

known to him within a period of two weeks. The provisions of a collective agreement which has been extended must be published in the *Journal officiel.*

After considering the opinion of the Higher Collective Agreements Board, the Minister of Labour may, at the request of one of the signatory parties or *ex officio*, cancel the extension of a collective agreement or of certain of its provisions when it appears that such agreement or provisions thereof no longer correspond to the situation in the branch of activity in the region concerned. The cancellation must be published in the *Journal officiel.*

The Act provides that the " groups " of workers and employers bound by a collective agreement must do nothing to compromise the faithful observance of the agreement, but that they guarantee its observance only in so far as the agreement itself provides. Provision is made as to the institution of proceedings in respect of the contravention of an agreement.

The labour inspectorate is made responsible for supervising the application of collective agreements which have been extended by Decree.

As already indicated, the Act provides for the setting up of a Higher Collective Agreements Board. The Board consists of the Minister of Labour or his representative as Chairman, the Minister for National Economy or his representative, the President of the social section of the Council of State, 15 representatives of workers chosen from all the most representative national organisations of workers, 15 representatives of employers including, either among or in addition to the members representing the most representative national employers' associations, persons representing agricultural employers, small or medium-sized undertakings, public undertakings and employer-craftsmen, and three representatives of family interests. If the Board has to deal with an agricultural question it will first be examined by a special section, half of whose members will be the representatives of agricultural workers' unions and agricultural employers' associations.

Reference has already been made to the functions of the Board as to determining a guaranteed national minimum wage to cover all occupations and advising the Minister of Labour on the occasion of the extension or cancellation of extension of a collective agreement. It also has the duty of advising the Minister where any difficulty may arise in the negotiation of a collective agreement and may be consulted by the Minister on any question relating to the conclusion and application of collective agreements.

Ordinance No. 68 adopted on 9 April 1949 by the Economic Council for the Combined Economic Area of Germany (British and United States Zones of Occupation)[1] lays down detailed provisions regarding the free negotiation of wages and conditions of employment by collective agreements. The tendency in Germany to ease the restriction on the negotiation of wages has already been manifested by permitted increases in the wages provided for in agreements concluded during 1948 and then by the abolition of the wage stop in November 1948.[2]

Collective agreements may be concluded by trade unions with employers or employers' associations. In either case federations may contract on behalf of affiliated organisations if duly authorised to do so.

Both the central and affiliated organisations are liable for the fulfilment of the reciprocal obligations of the parties to the agreement. All members of contracting organisations and any employer who signs an agreement are bound thereby. If an employer is bound by a collective agreement, its provisions relating to staff and staff representation within the undertaking apply to all the undertakings of the employer so bound.

Provisions in the collective agreement regarding the contents, conclusion and termination of contracts of employment and staff and staff representation within the undertaking bind all the workers and employers coming within the scope of the collective agreement. Contracts which do not comply with the provisions of the collective agreement are valid only if they are authorised by the agreement or if they contain changes in favour of the worker. Rights arising out of a collective agreement may be waived only under a settlement agreed upon by the parties to the collective agreement.

On the application of either contracting party, the Director of Labour may, in agreement with a committee consisting of three representatives of each of the central organisations of workers and employers, declare a collective agreement generally binding on the whole branch of industry coming within its scope, provided that the employers bound by the collective agreement employ at least 50 per cent. of the workers to whom the agreement applies and that the extension appears to be in the public interest. If the highest labour authority of a *Land* objects to the extension, the

[1] *Arbeitsblatt*, Frankfurt-on-Main, No. 5, May 1949, p. 154; *Military Government Gazette*, British Zone of Control, Part III; *Industry and Labour*, Vol. II, No. 12, 15 Dec. 1949, pp. 471-473.

[2] Report V (Supplement), *op. cit.*, pp. 14-15.

Director of Labour can declare such extension only with the approval of the Bizonal Executive Committee. Similar rules govern the cancellation of the extension of a collective agreement by the Director of Labour where this appears to be in the public interest—in other cases the extension ends on the termination of the agreement itself. The Director of Labour may delegate to the highest labour authority of a *Land* the right to declare or cancel the extension of the applicability of a collective agreement.

In Finland, where rates of pay had been tied to the official cost-of-living index since October 1947, the Government announced on 5 January 1950 that, as from 15 February 1950, wages would be allowed to find their own level. The Government also stated that existing wage levels on 15 February would be set as minimum rates and that, if collective negotiations by both sides did not result in agreement on revised scales, the Government would intervene to fix new wage rates in disputes remaining unsolved for a period of three months.

In Japan, the Trade Union Act of 1945 [1] required the approval of collective agreements by the administrative authorities. The amended Law of 22 May 1949 [2] omits this provision. While wages, therefore, may be fixed by collective agreement without official approval, it is important to remember that voluntary efforts are being made to achieve reasonable relationship between production, wages and prices. A joint Council for the Stabilisation of National Economy was formed early in 1949.[3] At the end of January 1949 the Council made public certain of its conclusions—that both sides in industry should unite to achieve maximum production and that the principle of wage stabilisation should be accepted, but that steps should be taken to revise the price system, to repress the black market and to maintain and improve the real purchasing power of wages. The two sides in the Council were not agreed as to the necessity of fixing minimum wages by legislation.

The purpose of the amended Law is to encourage the practice and procedure of collective bargaining by protecting the exercise by workers of freedom of association, organisation and designation of representatives of their own choosing for the purpose of nego-

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[1] Law No. 51 of 1945 enforced by Order of 27 Feb. 1946; Report V (Supplement), *op. cit.*, p. 15.

[2] LABOUR MINISTRY, Labour Policy Bureau, Tokyo: *Trade Union Law and Labour Relations Adjustment Law, 1949.*

[3] Communication from the I.L.O. correspondent at Tokyo.

tiating collective agreements governing relations between employers and workers.

A collective agreement may be concluded between a trade union and an employer or employers' organisation for a fixed period which may not exceed three years.

Provisions of individual contracts in derogation of the terms of a collective agreement are void and are replaced by the relevant provisions of the agreement.

Where at least three quarters of the workers in an establishment are covered by a collective agreement, its provisions are binding on other workers of a similar kind within that establishment.

Where a majority of workers in a locality are covered by a collective agreement, the competent authority may, at the request of either party and in agreement with the tripartite Labour Relations Committee (for which provision is made in the amended Law), extend the provisions of the collective agreement to all workers of the same kind employed in that locality and to their employers. In agreeing to such extension, the Committee may amend any provisions of the collective agreement which are deemed inappropriate for general application.

The Japanese Public Corporation Labour Relations Act [1] which came into force on 1 April 1949 and relates to the collective bargaining rights of employees of the Japanese National Railways and the Japanese Monopoly Public Corporation, contains detailed provisions regarding the method of negotiating agreements in respect of such employees.

The Corporation and the employees or their union are required to determine appropriate units for collective bargaining and to submit such designations to the Minister of Labour by 31 January in each year. Within the following month of each year the principal trade unions (whose membership must be limited to these public employees) as well as any representatives of unaffiliated workers are to designate a negotiating committee to be the exclusive representative of all employees in the unit. If this is not done, the Minister of Labour is to take steps to choose a committee. The Corporation also selects a committee. Meetings between the two committees may be initiated at the request of either party. At least one meeting must be held annually to negotiate a written collective agreement embodying terms as to wages and other basic

[1] *Official Gazette*, Tokyo, 20 Dec. 1948, Extra No. 47, p. 17; *Industry and Labour*, Vol. II, No. 10, 15 Nov. 1949, pp. 393-396.

conditions of employment. It should be remembered that strikes by these categories of employees are prohibited and that provision is made for the reference of disputes to compulsory arbitration.[1]

In Norway the authority of the joint Wages Committee set up in 1945 [2] has been extended by a temporary Law of 25 February 1949 [3] until 1 July 1950. The Law lays down a procedure in respect of disputes arising out of the negotiation of collective agreements or out of demands for the modification of existing agreements where the demand has not been initiated by or with the consent of the Norwegian Federation of Trade Unions or a competent employers' organisation.[4] The Law also provides that, to such extent as the Government may decide, the modification of wages and other conditions of employment not provided for by collective agreement may only be carried out with the approval of the public authorities. The same rule may be applied to new agreements or to modifications of existing collective agreements to which the central employers' or workers' organisations are not a party.

Collective Bargaining as Part of a General System of State Regulation of Wages and other Conditions of Employment

In the countries of Central and Eastern Europe, where the State, by means of nationalisation and economic planning, directs the economic life of the nation, collective agreements constitute a means whereby those responsible for the management of undertakings assume their obligations towards the State and the workers assume their obligations towards the undertaking with regard to the accomplishment of their respective economic functions as laid down in the State plan.

Hence, the primary responsibility of industrial associations is to increase production and improve output. The Czechoslovak Prime Minister, who is also President of the National Trade Union Council, defined this responsibility very clearly—

> Whereas wages are the paramount concern of trade unions under a capitalist régime, their essential task under a socialised economy is to solve the problem of the productivity of labour.[5]

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[1] See p. 28.
[2] Report V (Supplement), *op. cit.*, p. 12.
[3] Law No. 4, 25 Feb. 1949, *Norsk Lovtidend*, 7 Mar. 1949, No. 8, p. 165.
[4] See p. 29.
[5] *Odborář* (Prague), No. 39, 30 Sept. 1949, p. 1219.

Under this kind of economic planning, discussions between the managements of undertakings and the trade unions are concentrated on the fixing of labour standards for different categories of workers.

In the 1949 report [1] the Office drew attention to the resolution concerning collective agreements adopted by the All-Union Council of Trade Unions of the U.S.S.R. in February 1948 and to the emphasis laid on the inclusion in such agreements of obligations directed towards the fulfilment of the production plan. It may be of interest to observe how the special importance of collective agreements as a means of improving production was at the same time stressed in the report of the President of the Central Council of Soviet Trade Unions.[2] In his words, it was the purpose of collective agreements—

> . . . to guarantee the accomplishment of production plans, increase of output, improvement of labour organisation and strengthening of the responsibility of economic and trade union organisations with a view to bettering the living conditions of manual and other workers.

With reference to the collective agreements for the year 1948, the report went on to state that—

> . . . collective agreements devote great attention to the good organisation of wage payments and to the fixing of labour standards. . . . The agreements of 1948 must provide for a raising of these standards based on better techniques and improved qualifications on the part of the workers. . . . These agreements must be concluded with particular regard to obligations undertaken in respect of the completion of the Five Year Plan within four years.

A similar procedure has been followed in Albania, Bulgaria, Hungary, Poland, Rumania and Yugoslavia. Thus, in Poland, collective agreements are concluded between the competent Ministers and the trade unions and apply in general throughout the whole national territory in accordance with the Decrees of the Ministry of Labour and Social Welfare.

They thus contribute to a progressive co-ordination of work conditions, an indispensable element in a planned economy, and take the place of legislative regulation of wages. At the same time, these

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[1] Report V (Supplement), *op. cit.*, pp. 19-20.

[2] *Revue française du Travail*, Nos. 4-5-6, Apr.-May-June 1948, pp. 223-227: " U.R.S.S.: L'application des conventions collectives en 1947 et la préparation des conventions pour 1948 — Extrait du Rapport de M. Kouznetzov, Président du Conseil Central des Syndicats Soviétiques ".

national agreements contribute to the increase in production necessary for the realisation of the State economic plan.[1]

Space does not permit of the detailed examination of collective agreements concluded in these various countries, but the elements which are essential to them are well illustrated by reference to one of the more recent agreements concluded in Hungary—the collective agreement of 15 January 1949 for industry and mining.[2]

This agreement was concluded between the National Council of Hungarian Trade Unions and the Minister of Industry. The Minister stated that for the first time a collective agreement had embodied the essential changes in the political and economic structure of the country, " changes which have greatly altered the position of the working class in regard to production and the State ".[3] The Secretary-General of the National Council of Trade Unions declared that—

> Apart from the interests of the workers, we were anxious to help to increase productivity. The collective agreement directly concerns production workers and enables them to make the best of their powers of initiative, their knowledge and their diligence. It ensures more advantageous and more economic production . . .

and that—

> The wages system laid down by the new collective agreement will enable the State and administrations of undertakings to ensure that the increase in productiveness exceeds that in wages, the ensuing surplus value being the one factor that will ensure the development and progress of the country.[3]

The agreement lists the legal and other provisions of benefit to workers (hours of work, rest, wages, protection of labour, etc.) and then lays down their rights in regard to production—to control the establishment of output standards, to propose the introduction of new methods of work, to draw up plans for improvements in productive and administrative work, to make suggestions for the rationalisation of production, etc. The workers undertake to carry out the production plan and to increase output, to avoid waste of materials and machinery, to reduce losses of time, to apply safety measures. To strengthen discipline, they undertake to work conscientiously, to observe full working hours, to put a stop to

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[1] *Industry and Labour*, Vol. I, No. 10, 15 May 1949, p. 382 (based on an article published in the Central Board of Polish Trade Unions Monthly Bulletin, Warsaw, No. 1, Jan. 1949).

[2] Basic Collective Agreement for Manufacturing Industry and Mining, 1949, published (in Hungarian) by the National Council of Hungarian Trade Unions; *Industry and Labour*, Vol. I, No. 12, 15 June 1949, pp. 475-477 and 485-488.

absenteeism. Corresponding undertakings are given by management. It is stated in the agreement that—

> The system of wages by output is best suited . . . to increase productiveness. . . . The contracting parties consider that all methods of equitable remuneration should be based upon this system. . . .

The Standing Committee of the All-China Federation of Labour in Peking recently issued provisional regulations concerning labour-management relations.[1] The provisional regulation concerning labour-management relations in private undertakings lays down the right to bargain collectively as a main principle and collective agreements are recommended for individual trades and industries as well as for separate undertakings. Provision is made for the adjustment of existing wage rates, whether too high or too low, by collective agreement subject to the approval of the local labour bureau and it is laid down that, in order to avoid repercussions of prices upon wages, the local People's Government will publish a unified standard for calculating wages based on the price index or on the current prices of certain commodities.

The regulation specifies that labour, whenever possible, shall be represented in collective bargaining by trade unions. The second provisional regulation (concerning the conclusion of collective agreements in private undertakings) provides that collective agreements shall regulate the rights and obligations of the contracting parties as well as conditions of work and may be concluded between trade unions and associations of employers in private industries and commercial occupations.

Agreements must include provisions regarding engagement, dismissal, the procedure for framing factory or shop regulations and their contents, wages, hours of work, rest periods, etc.

Where an agreement for an undertaking is to be concluded, the trade union and the employers' association for the industry or occupation concerned each elect a committee to prepare a preliminary draft of the agreement. Both parties then depute equal numbers of representatives to form a joint committee to reach a common draft on the basis of the two preliminary texts. This draft is referred to both parties for further examination and, thereafter, the committee makes a further draft which goes to both parties for final consideration and approval. It may then be signed after the labour bureau also has signified its approval.

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[1] *Industry and Labour*, Vol. III, No. 5, 1 Mar. 1950, p. 172.

CHAPTER II

CONCILIATION AND ARBITRATION

The question of conciliation and arbitration is directly complementary to that of collective agreements. Previous reports to the Conference [1] over the past three years have set forth the law and practice concerning the conciliation and arbitration procedures of a considerable number of countries.

The primary purpose of conciliation and arbitration procedures in most countries is to provide an alternative to work stoppages as a means of resolving collective labour disputes concerning the interests of the parties and especially those arising out of fundamental differences over economic matters such as wages, hours and other conditions of employment that are usually regulated by collective agreements negotiated by the parties. Work stoppages ordinarily occur when negotiations between the parties have failed and are the last resort in an effort to reach an acceptable arrangement. Their frequency, therefore, may be taken as an indication of failure of the normal processes of collective bargaining, assisted where appropriate under national legislation by mediation, conciliation and arbitration.

The fact that the average time-loss rates due to work stoppages over a 20-year period in 22 countries, as shown by a recent survey [2], was less than two tenths of 1 per cent. of the total working time in those countries, may be taken as an indication of the degree of effectiveness of the existing procedures employed in such countries for the prevention and settlement of industrial disputes.

Since the submission of the report on industrial relations to the 32nd Session of the Conference a number of countries have

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[1] International Labour Conference, 30th Session: Report VII, pp. 69-77; 31st Session: Report VIII (1), pp. 91-126; 32nd Session: Report V (Supplement), pp. 21-48.

[2] Robert Morse WOODBURY: "The Incidence of Industrial Disputes: Rates of Time Loss", in *International Labour Review*, Vol. LX, No. 5, Nov. 1949, pp. 451-466. It is further noted in the article that in comparison with unemployment, for which a rate of 3 per cent. is low and one of 10 per cent. not unusual, the loss from industrial disputes appears almost negligible (p. 466).

altered their procedures for the prevention and settlement of collective disputes, or are considering alterations. The pertinent information respecting these changes, or proposals, is given below, the countries being listed in alphabetical order.

In Brazil a new Collective Disputes Law was enacted early in 1949.[1] Before that, a Decree of 15 March 1946[2] required that collective disputes should be submitted in the first instance to conciliation procedure or to a decision of the labour judiciary. Strikes and lockouts were prohibited in essential services and permitted in other occupations only after a decision of the authorities. The 1949 Act provides procedures under which collective disputes may be submitted to conciliation or to the labour courts and establishes regulations for the exercise of the right to strike.

Where grounds for calling a strike exist, the workers must notify the trade union concerned which must organise a referendum by secret ballot among the workers. If the vote is in favour of striking, workers' representatives are to be elected. Notice of intention to strike, the period varying with the nature of the undertaking involved, must be given by the delegates to the employer, the union and the local authorities. The local authorities are to notify the competent authorities within 24 hours and within a like period a person is to be appointed to represent the Ministry of Labour in relation to the parties to the dispute.

The parties may at any time agree to ask the labour court to open negotiations with a view to reaching a settlement of the dispute, or a majority of the workers may decide by secret ballot to make such a request. A request must be made by the authorities where an essential activity is involved (an activity which relates directly and fundamentally to the functioning of hospitals, electricity undertakings and the manufacture of war materials). In either case the opening of negotiations does not cancel a strike notice or interrupt an existing strike unless the parties so agree.

Within 48 hours of a request to the court the president of that court must decide whether the request may be entertained. If accepted, a conciliation meeting of the parties and other specified persons must be held within three days under the direction of the president. If an agreement is not reached, a period is fixed for the opening of discussions before the court, the documents are

[1] *Legislaçao do Trabalho*, Apr. 1949, No. 144, p. 206. For a note on this Act see *Industry and Labour*, Vol. III, No. 4, Feb. 1950, pp. 124-127.

[2] *L.S.*, 1946, Braz. 2.

submitted to the Ministry of Labour representative, and a time fixed for the production of evidence. Further time-limits are laid down during which the court may make any necessary enquiry or appoint commissions for this purpose. Following the completion of an enquiry or of the taking of evidence on commission, judgment must be given within five days.

The Act also contains provisions ensuring the free exercise of the right to strike and protecting the workers engaged therein. Strikes are only prohibited where their object is to alter a decision in force and rendered after collective negotiations, or if a collective agreement containing an express provision regarding the question is in force, or if a collective accord confirmed by a court is in existence, except where, in any of such cases, the time-limit fixed by law for reviewing the decision, agreement or accord has expired.

In Ceylon, the withdrawal of the Wartime Essential Services Order of 1942, prohibiting strikes and lockouts in essential industries, leaves in force the Industrial Disputes Conciliation Ordinance, No. 3 of 1931.[1] This Ordinance provides for the investigation and settlement of industrial disputes by conciliation and enables the authorities to cause an enquiry to be made on whether a reference to a conciliation board is likely to lead to a settlement. It also allows for the reference of a dispute to a conciliation board, which may be tripartite, nominated by the Commissioner of Labour. No reference may be made in cases where agreed procedures exist by reason of a collective agreement unless the procedure has been exhausted and both parties consent to it. A settlement, accepted by both parties, is binding upon them until notice of repudiation is duly given. If the conciliation attempt is not successful a report of the dispute is forwarded to the authorities for publication. At the present time a new Ordinance concerning trade disputes is under consideration. The contemplated measure will extend the procedures of enquiry and conciliation, provide for voluntary arbitration and, in certain cases, compulsory arbitration.[2]

By a directive dated 22 November 1949 the All-China Federation of Labour brought to the attention of its members provisional regulations governing the procedure for the settlement of labour disputes and called on the unions of higher grade to negotiate

[1] *L.S.*, 1931, Cey. 1.
[2] *Twenty-five Years of Labour Progress in Ceylon*, Colombo, 1948, pp. 15-19.

with the local authorities in the different regions and cities for their adoption. As a consequence local regulations modelled on the provisional regulations have been adopted and put into force in Peking, Shanghai, Tientsin, Hankow, Canton and other industrial centres.

The regulations apply to all public, co-operative and privately operated enterprises and provide for the settlement of disputes by means of direct negotiation, conciliation and arbitration.

In the event of a dispute the management of the enterprise concerned and the local trade union will first endeavour to adjust the matter by direct negotiation. If the attempt is unsuccessful further discussions are to be arranged between the higher trade union body and, in the case of public or co-operative enterprises, the competent authority under which the enterprise is operated, or in the case of private enterprises, the competent association of employers.

Where direct negotiations fail either party may submit the dispute to the local labour bureau for conciliation. The attempt to conciliate the parties is to be carried out by an *ad hoc* committee appointed by the labour bureau. Any settlement reached in the course of direct negotiations or as a result of the conciliation procedure is to be put in writing, signed by the parties and filed with the local labour bureau.

If the dispute is not settled by conciliation, it will be referred to an arbitration committee appointed by the bureau. The award of the committee must be approved by the bureau before it is communicated to the parties.

Agreements reached by the parties or arbitral awards are binding. An arbitral award may be appealed by either of the parties to the local People's Court within five days of its announcement but if no appeal is taken the award becomes effective as law. An appeal does not operate to suspend the effectiveness of the award.

During the period of direct negotiation, conciliation or arbitration proceedings, both parties to the dispute are obliged to maintain the *status quo* of production or business. The employer is prohibited from engaging in a lockout, cutting wages, or engaging in any other discriminatory treatment against his workers. The workers are to continue work and abide by labour discipline as usual.[1]

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[1] *Industry and Labour*, Vol. III, No. 5, 1 Mar. 1950, p. 172.

A recent measure enacted by the French Parliament on 11 February 1950 is intended to relax wartime controls and provides *inter alia* that conciliation and voluntary arbitration shall be reintroduced for the prevention and settlement of collective industrial disputes. During the debate on the Bill a Government proposal for compulsory arbitration was rejected by a decisive majority in the National Assembly, being opposed by both the trade unions and the employers' associations.[1] The trade unions considered that compulsory arbitration would deprive the workers of the strike weapon to enforce their demands. The employers were opposed to the principle of governmental intervention inherent in the proposal. In addition, opponents of the proposal considered that, as the right to strike was guaranteed by the Constitution, denial of such right by making arbitration compulsory would be contrary to the Constitution. Consequently, under the new Act, the parties will be required initially to seek agreement by conciliation in the event of a collective dispute, but resort to arbitration will be voluntary and the ultimate right to strike is unimpaired. A strike will not suspend the labour contract except in the case of grave fault on the part of the workers.

Under the new Act [2] all collective agreements must establish contractual conciliation procedures for the settlement of disputes that may arise between the employer and workers bound by the agreement. Disputes that have not been submitted to contractual procedures, or procedures otherwise established by agreement of the parties, must be submitted to a national or regional conciliation commission. In the event of a dispute the conciliation procedures may be set in motion by one of the parties, the Minister of Labour and Social Security or the Prefect.

Each commission is to be composed of representatives of workers and employers in equal numbers and not more than three representatives of the public authorities. The presiding officer for the national commission is to be the Minister of Labour and Social Security or his representative, and the divisional labour inspector or his representative, in the case of regional commissions. Regulations are to be published specifying the composition, functioning and territorial competence of the commissions, and may

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[1] *Bulletin du Conseil économique*, 1 Dec. 1949; see also document No. 8566, Assemblée nationale, Session de 1949 (Opinion transmitted by the President of the Economic Council).

[2] Law No. 50-205 concerning collective agreements and the settlement of labour disputes, *Journal officiel*, 12 Feb. 1950.

provide for the organisation within the regional commissions of sections competent for special areas.

The Act also encourages the establishment by collective agreements of arbitration procedures and recourse to voluntary arbitration as a means of settling disputes. Where a dispute is submitted to arbitration pursuant to a collective agreement, or otherwise with the consent of the parties concerned, a minute is to be drawn up and signed by the parties concerning the failure of conciliation, the objects of the dispute and the points submitted to arbitration. The arbitrators are to be chosen by agreement of the parties or under methods agreed to by the parties.

An arbitral award may not be based on matters other than those contained in the minute, or those occurring after the drafting of the minute which are a result of the dispute. The arbitrator is to decide in law the disputes relative to the application or interpretation of the laws, regulations, collective agreements, or other agreements of the parties, and in equity, the disputes relative to wages or other working conditions that are not fixed by law, regulations or agreement, and disputes relating to the negotiation and revision of collective agreements. Reasons must be stated for the award, which is to be notified to the parties within 24 hours. It may not be made the object of an appeal before the Court of Cassation or the Council of State.

The Act also provides for the creation of a Higher Court of Arbitration competent to hear appeals of the parties based on the grounds that the arbitrator has exceeded his powers or decided a matter contrary to law. The Court is to have nine members as follows: the vice-president of the Council of State or the president of a section thereof, four members of the Council of State, and four senior members of the judiciary.

An appeal to the Higher Court does not stay the effect of the award and must be taken within five days from the date the award has been notified to the parties. The decision of the Court is to be taken within eight clear days after appeal and notified to the parties within the following 24 hours. When the decision annuls in whole or in part an arbitral award, the case is returned to the parties who may, if they agree, designate a new arbitrator. In the event of the second arbitral award's being annulled by the Court, the Court may appoint a reporter to conduct an enquiry and, within 15 days of the second decision, after having received the report of the enquiry and acting with the powers of an arbitrator, issue a final arbitral award. Administrative regula-

tions are to be issued governing the organisation and functioning of the Court.

Conciliation agreements and arbitral awards are effective as a rule from the date of the request for conciliation. They become binding on the parties by the act of filing the conciliation agreement or arbitral award with the competent authorities named in the Act, a filing that must take place within 24 hours after the agreement or award has been notified to the parties. Decisions and awards of the Higher Court are to be printed in the *Journal officiel* within three months of issue.

When an agreement or award which has become binding on the parties relates to the interpretation of a clause of an existing collective agreement, or to wages or other working conditions, it is to have the effect of a collective agreement.

By an Ordinance of 29 October 1949, the Government of India amended the Industrial Disputes Act of 1947, referred to in the former report [1], to include within its coverage banking and insurance companies having branches or other establishments in more than one province. Under this Ordinance the power to refer industrial disputes concerning such companies to any tribunal or other authority for adjudication, enquiry or settlement is reserved to the central Government. Current proceedings are deemed to be abated and in decided cases the central Government may make a new reference of the dispute for readjudication, in the meantime suspending the earlier award or decision.[2] The Ordinance has now been replaced by the Industrial Disputes (Banking and Insurance Companies) Act, 1949, which is drafted along the same lines.[3] On 9 December 1949 the Minister for Labour introduced in the Constituent Assembly of India the Industrial Disputes (Appellate Tribunal) Bill. This Bill provides for establishing an appellate tribunal having as its object the co-ordination, by its decisions, of the activities of the large number of industrial tribunals set up by the central and provincial Governments. The jurisdiction of the tribunal will extend over all industrial tribunals, industrial courts, labour courts, wage boards, etc., whether constituted under a central or a provincial enactment. Appeals will lie to the tribunal only in matters involving finance, classification by grades, retrenchment of staff and questions of law. Strikes and lockouts are to be prohibited during the period allowed for an appeal to the tribunal

[1] Report V (Supplement), *op. cit.*, p. 42.
[2] *Industry and Labour*, Vol. III, No. 4, 15 Feb. 1950, p. 132.
[3] *Gazette of India*, Extraordinary, Part IV, dated 15 Dec. 1949, pp. 176-177.

or during the pendency of any appeal. The tribunal is to be composed of a chairman and such number of other members as the central Government considers necessary, each having the status of High Court judges. The tribunal may appoint assessors to advise them in any proceeding. The chairman is to constitute as many benches of the tribunal as may be necessary, each bench consisting of not less than two members. The proposed measure is to continue in force until enactment of a new law concerning labour relations and trade unions which is at present under consideration by the central Government to replace existing legislation.[1]

During June 1949 a provisional measure came into force in Iran establishing compulsory conciliation and arbitration procedures. The settlement of a dispute is first to be attempted by a bipartite conciliation committee of the undertaking involved. If a settlement is not reached the dispute is then presented to a tripartite conciliation board which must take a decision within one week. A unanimous decision is binding on the parties. If the decision is not unanimous the dispute will be considered by a seven-member, tripartite, arbitration board which must render its decision within one month. A majority decision of the members is final and binding on the parties. Strikes and lockouts are prohibited generally, but strike action is authorised if the dispute has not been settled within the time-limits imposed by the Act. At the end of one year a new law is to be prepared on the basis of the experience gained during the operation of the present law.[2]

The Ministry of Labour and Social Affairs in Israel also has under consideration a labour disputes law which will provide for mediation and arbitration procedures in the settlement of labour disputes. In the meantime the conciliation machinery established by the Industrial Courts Ordinance of 1947 is continued in force. Under the Ordinance any trade dispute, whether existing or apprehended, may be reported to the Ministry by or on behalf of the parties. With the consent of the parties the dispute may be referred to the court for settlement. No reference may be made in cases where agreed procedures exist by reason of a collective agreement unless the procedures have been exhausted and both parties consent thereto. The Act makes no direct reference to the degree to which awards may be binding but declares that the court

[1] *Gazette of India*, Part V, dated 17 Dec. 1949, pp. 439-447; I.L.O. correspondent's report, Dec. 1949.

[2] Labour Law of 7 June 1949. Text of the Act furnished by the Iranian authorities.

shall not make any award which is inconsistent with the provisions of any measure regulating wages, hours of work or other conditions of employment.[1]

In Japan, both the Trade Union Law and the Labour Relations Adjustment Law referred to in the former report [2] were amended during 1949. The former law provides for the establishment of labour relations committees, at the national and local levels, to mediate in collective bargaining and to prevent or settle disputes by means of conciliation and voluntary arbitration. The latter law lays down the rules of operation. Neither the basic duties in respect to mediation, conciliation and arbitration, described in the earlier report, nor the basic rules of operation of the committees are altered in any substantial respects.[3]

The Public Corporation Labour Relations Act came into force in Japan on 1 June 1949. This Act, while protecting and encouraging the rights of employees to organise and to bargain collectively, prohibits strikes and lockouts in disputes involving public corporations, such as the national railways, and State monopolies. Compulsory procedures are provided for the settlement of such disputes upon the failure of voluntary methods.

Mediation committees (one for the railways and one for State monopolies) are established by the Act in the public corporations at the national level, and local committees at the local levels, to assist in the settlement of disputes. Each committee is composed of three members (with substitutes) appointed by the Prime Minister upon nomination of the parties. In this respect the Act provides that the employees shall select one member from a list proposed by the corporation, the corporation is to select one member from the list proposed by the employees, and the two members shall agree upon the third. The committee is bound to undertake mediation at the request of the parties or of the appropriate Ministers, or when it decides that such action is necessary. All members must take part in proceedings of the committee, and proposals for settlement must be agreed to by a majority, submitted to the parties with a recommendation for acceptance, and made public.

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[1] *Industry and Labour*, Vol. II, No. 12, 15 Dec. 1949, p. 470; for a note on the 1947 Ordinance, see *International Labour Review*, Vol. LVI, Nos. 5-6, Nov.-Dec. 1947, p. 601.

[2] Report V (Supplement), *op. cit.*, p. 46.

[3] The amended laws are noted in *Industry and Labour*, Vol. III, No. 3, 1 Feb. 1950, pp. 89-93.

Disputes involving issues which are the subject of collective bargaining and have not been settled by collective bargaining or mediation procedures are to be submitted to an Arbitration Committee. This committee is composed of three members and three substitute members whom the Prime Minister selects from a list of qualified candidates nominated jointly by the respective bargaining agencies of the employees and the corporation. Members are appointed for terms of three years but may be dismissed for misconduct or inability to perform their functions.

The Arbitration Committee must undertake the arbitration of a dispute upon request of the parties, the appropriate Ministers, when a majority of its members so request, or when mediation has failed to resolve the dispute within two months. The committee is empowered to hold hearings, enforce the attendance of witnesses and the production of documents, and to inspect workplaces or records. Its award is to be made in writing and is final and binding upon the parties. Any award involving the expenditure of funds not available in the corporation budget or funds, may not become operative until approved by the Government but, on approval, becomes effective from the date provided in the award.

Strikes and lockouts and other acts of dispute hampering the normal course of operations of the public corporations are forbidden by the Act. Employees who engage in such activities are subject to dismissal.[1]

In Norway, a temporary measure adopted on 25 February 1949[2] extends until 1 July 1950 the authority of the Wages Committee set up in 1945 to facilitate the settlement of collective disputes without recourse to work stoppages.[3] In disputes arising out of the negotiation of collective agreements, or demands for modifications of existing agreements, where the matter has not been initiated by or with the consent of a competent trade union or employers' association, the State Conciliator is to notify the governmental department concerned upon the failure of conciliation prescribed by the 1927 law.[4] If the department finds that a work stoppage would affect important public interests, it may submit the dispute to the Wages Committee. The decision of the committee is binding on the parties, having the same force as a collective agreement.

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[1] *Industry and Labour*, Vol. II, No. 10, 15 Nov. 1949, p. 393.
[2] *Idem*, Vol. III, No. 3, 1 Feb. 1950, p. 93.
[3] Report V (Supplement), *op. cit.*, p. 32.
[4] *L.S.*, 1927, Nor. 1.

The State Conciliator may submit a dispute directly to the Wages Committee where either party, having agreed to resort to conciliation, rejects his proposal for the settlement of the dispute. The committee may rule that the proposal shall be given the force of a collective agreement or may confirm the rejection. In the latter case the dispute is to be referred to the department concerned as above.

No work stoppage may be resorted to in cases covered by the Act before the lapse of six days after the exhaustion of the specified procedures without a settlement having been obtained.

The Industrial Relations Act of 16 August 1949, in New Zealand, widens the power of Conciliation Commissioners appointed under the Industrial Conciliation and Arbitration Act of 1925 [1], to intervene in the settlement of industrial disputes. Under this Act a Commissioner, or any person nominated by the Minister of Labour, may call a compulsory conference of the parties to a dispute within his jurisdiction, provided that he has reasonable grounds for believing that a strike or lockout exists or is threatened and that the issue in dispute is not, in his opinion, specifically provided for in an award or industrial agreement. In addition to the parties to the dispute or their representatives, the Commissioner may require the attendance of any other persons who would be likely to assist in securing a settlement. Penalties are provided for persons who, without lawful excuse, fail to comply with a direction of the Commissioner to attend a conference authorised under the Act.[2]

Decree No. 101 of 19 March 1949 [3], in El Salvador, supplements Article 5 of the Collective Labour Disputes Act [4] which prohibits strikes in public services, by specifying the authorities who are to arbitrate such disputes and the procedure to be followed. In the event of a dispute between employers and workers in a public service the Director of the National Labour Department will be the arbitrator. No appeal may be taken against his award but the award is to be submitted to the Executive Authorities responsible for labour matters, who will either confirm the award or, if in their view it is contrary to the public interest, will amend or

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[1] Report VIII (1), *op. cit.*, p. 119.

[2] Industrial Relations Act, 1949, No. 6, dated 16 Aug. 1949. See *Industry and Labour*, Vol. III, No. 4, 15 Feb. 1949, p. 131.

[3] *Diario Oficial*, tomo 146, No. 65, 19 Mar. 1949, pp. 1045-1046. For a note on this Act, see *Industry and Labour*, Vol. III, No. 2, 15 Jan. 1950, p. 51.

[4] *L.S.*, 1946, Sal. 2.

cancel the award. Once the award is final it comes into effect and is binding on the parties three days after notification unless a different date is specified in the award itself. " Public services " within the scope of the Act mean services performed by employees of the State, of private transport undertakings, or by workers who are absolutely indispensable for the functioning of private undertakings which cannot suspend their services without causing serious and immediate detriment to health or public economy.

A Legislative Decree of 26 June 1949, in Syria, introduced a new Penal Code containing provisions regarding strikes and lockouts having as their purpose the hindering of operations of a public service, or the exerting of pressure on the public authorities, or of protesting against a decision or action of the public authorities. Persons found guilty of engaging in the prohibited activities are subject to penalties of fines and imprisonment laid down by the Penal Code.[1]

During the last session of the United States Congress various proposals were considered to repeal or to amend the Labor-Management Relations Act of 1947 [2], but no proposal was enacted into law, and the basic legislation for the settlement of industrial disputes has not been altered. The intention of the Administration to seek changes in the 1947 Act has not been abandoned, however, for in his State of the Union Message to Congress on 4 January 1950, President Truman declared that—

> The Federal Statute now governing labour relations is punitive in purpose and one-sided in operation. . . . It should be repealed and replaced by a law that is fair to all and in harmony with our democratic ideas.[3]

Although the basic legislation has not been altered, special provision was made on 26 April 1949, without the necessity of enabling legislation, to prevent interruption of the important atomic energy programme through work stoppages by the creation of an Atomic Energy Labor Relations Panel. The creation of the panel is consistent with the principle of free collective bargaining and does not relieve management and labour of their responsibility for endeavouring to settle disputes by voluntary procedures and mutual agreement. The services of the panel are to be used only when voluntary procedures fail but the ultimate right of the

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[1] *Industry and Labour*, Vol. II, No. 11, 1 Dec. 1949, p. 432.

[2] These proposals are referred to in Report V (Supplement), *op. cit.*, pp. 22-24.

[3] *United States Department of State Bulletin*, Vol. XXII, No. 550, 16 Jan. 1950, p. 75.

parties to resort to direct action in settlement of their differences is not prohibited.

The three-member panel is empowered to assume jurisdiction of any labour-management dispute which has not yielded to the normal processes of collective bargaining and conciliation, and which threatens to interfere with an essential part of the atomic energy programme. Under this procedure both the private contractors and unions must agree that while a dispute is pending there will be no interruption of production or service, or changes without agreement in the existing terms and conditions of employment. So long as the panel retains jurisdiction, and for an additional period of 30 days where the dispute is not settled and the panel has made recommendations for its settlement, the same terms and conditions of employment are to be maintained. The panel is to have full discretion in the use of all voluntary procedures to end a dispute by mutual agreement and as to the time and method of terminating its jurisdiction.

The obligation of the parties under the agreement not to interrupt production or alter conditions would end as regards any particular dispute (1) if the panel does not assume jurisdiction within 15 days after either party requests it to do so, (2) if at any time more than 30 days after having assumed jurisdiction the panel is notified by either party of its desire to terminate the agreement and the dispute is not settled within the following 20 days, or the panel has not made recommendations for the settlement of the dispute within such period, or (3) whenever the panel announces that it will not assume jurisdiction of a dispute or has terminated its jurisdiction thereof.

When the panel is unable to effect a settlement by voluntary agreement it may recommend such terms and conditions of settlement as are deemed appropriate and for 30 days thereafter the parties must maintain the *status quo*. At the end of the 30-day period either party may reject the recommendations and engage in a strike or lockout. If a stoppage occurred in an operation vital to the atomic energy programme a national emergency would be created, in which case the general provisions of the emergency section of the Labor-Management Relations Act would be applicable. Under this section the parties could be required to refrain for an additional period of 80 days from engaging in a strike or lockout.[1]

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[1] *Industry and Labour*, Vol. II, No. 11, 1 Dec. 1949, p. 432.

CHAPTER III

CO-OPERATION BETWEEN PUBLIC AUTHORITIES AND EMPLOYERS' AND WORKERS' ORGANISATIONS

The problem of co-operation constitutes the last part of the programme drawn up by the Conference at its 30th Session in 1947.

The whole machinery of industrial relations, viewed in a broad sense, including the machinery of collective bargaining, may be described as machinery for promoting co-operation between employers, workers and public authorities. But the Conference, by drawing a distinction between co-operation and the other aspects of industrial relations, has assigned a different meaning to " co-operation ". Whereas, in collective bargaining, the emphasis is on the desire of the parties to obtain for themselves the greatest possible share in the produce of their common work, in the field of co-operation, on the other hand, emphasis can be placed on united efforts to increase productivity—an indispensable condition for a steady improvement in the standard of living of the whole population. The institution in a very large number of countries of numerous agencies for co-operation at the various levels of national activity responds to an entirely legitimate desire to associate workers in the supervision of conditions of employment, and often also in the actual responsibility for production; but it responds also, and especially, to a need and a desire to increase national productivity by the united efforts of all concerned.

There is no doubt that the success of the measures to increase productivity which are now being taken in so many countries depends to a very large degree on the attitudes of employers' and workers' organisations to the question of raising productivity.

In the past, workers' organisations have tended to be cautious, if not hostile, in their attitude towards policies for increasing productivity. Such policies have often been presented to workers in the form of attempts to introduce piece-work methods of remuneration. Workers have often feared, not without reason, that, in the absence of adequate safeguards, their health might be

impaired as a result of speeding up the tempo of their work, that increased output might lead to unemployment, or that rate-cutting might make it necessary to work harder than before in order to earn the same wage. Trade union organisations, moreover, have tended to consider that the level of productivity depends much less upon factors within their own control or that of their members than upon other factors which are almost wholly beyond their control—such factors as the rate of investment and of technical progress, the organisation of production and the state of trade. They have tended to believe that the interests of workers would best be safeguarded if trade unions concentrated their activities primarily on the question of the distribution of the fruits of production rather than on an attempt to increase productivity. It is true that trade union negotiations with employers, even when they have been primarily concerned with maintaining or increasing the share of workers in the proceeds of the undertaking, have not been without influence on the level of productivity. Wage increases, granted at the insistence of trade unions, may, for example, have prompted employers, faced with higher wage costs, to make greater efforts to reduce other costs. But where productivity has benefited for such reasons this has been, for the most part, an incidental result rather than a designed consequence of traditional collective bargaining.

Recently there appears to have been a tendency on the part of trade unions to attach greater importance, in the national interests and in the interests of workers themselves, to measures to raise productivity as distinct from measures to redistribute income. Coupled with this there has been a tendency towards the establishment in a growing number of countries of safeguards for the interests of workers and participation by trade unions in the administration of measures to raise productivity. Growing recognition and protection of the right to organise, the spread of collective bargaining and of participation by trade unions in the institution and supervision of systems of wage payment, and in some countries the closer association of trade union organisations with the planning and direction of the economy at the highest levels, are all significant from this point of view.

In these circumstances, a trend of the greatest significance can be discerned in a number of countries—a tendency for the attitude of cautious reserve often adopted by trade unions in the past towards measures to increase the productivity of labour to give way to a new attitude of positive and vigorous support for and

co-operation in such measures, provided that they are accompanied by adequate safeguards for the workers.

Employers' organisations, too, have shown a tendency in many countries to attach greater importance to measures to increase productivity, and to give greater recognition to the need for provisions to safeguard the interests of workers. It can be said that many of the obstacles which in the past have hampered joint efforts to increase productivity have been or are being overcome.

In a series of studies [1], the Office has described the important part played by industrial associations in the organisation of wartime economy and in reconstruction. Further, in the reports already submitted to the Conference [2], the Office has made a detailed survey of legislation and practice with regard to co-operation.

It will be sufficient, therefore, to supplement this considerable volume of documentation by a very brief survey of the main developments which have taken place since the last session of the Conference.

Co-operation at the Level of the Undertaking

In a considerable number of countries, there has been a remarkable advance since the end of the war in the establishment of agencies for co-operation in the undertaking.

In certain countries, co-operation in the undertaking depends upon voluntary agreements concluded between the parties [3]

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[1] International Labour Conference, 26th Session, Geneva, 1940: *Methods of Collaboration between the Public Authorities, Workers' Organisations and Employers' Organisations* (Geneva, I.L.O., 1940).

Conference of the International Labour Organisation, New York, October 1941: *Wartime Developments in Government-Employer-Worker Collaboration*, Supplement to *Methods of Collaboration between Public Authorities, Workers' Organisations and Employers' Organisations* (Montreal, I.L.O., 1941).

See also I.L.O. Studies and Reports, Series A (Industrial Relations), No. 43: *British Joint Production Machinery* (Montreal, 1944); *Labor-Management Co-operation in United States War Production* (Montreal, I.L.O., 1948); *La participation des organisations professionnelles à la vie économique et sociale en France* (Geneva, I.L.O., 1948).

[2] See International Labour Conference, 31st Session, San Francisco, 1948, Report VIII (1): *Industrial Relations*, Part IV, " Co-operation Between Public Authorities and Employers' and Workers' Organisations ".

International Labour Conference, 32nd Session, Geneva, 1949, Report V (Supplement): *Industrial Relations*, Chapter I, " Co-operation Between Public Authorities and Employers' and Workers' Organisations ".

[3] The following countries have instituted agencies for co-operation in the undertaking by means of agreements: Canada, Denmark, Italy, New Zealand, Norway, Sweden, the United Kingdom, the United States.

whereas, in a number of others, it is based on agencies established by means of legislation.[1]

Co-operation by Means of Agreements

Among the countries which have preferred to adopt the more flexible method of establishing agencies for co-operation by means of agreement, reference may be made to the United States, Canada, the United Kingdom and the Scandinavian countries.

In the United States, an enquiry based on a questionnaire submitted to 1,000 manufacturing companies through the medium of the American Management Association showed that co-operation between employers and workers is more widespread than is generally supposed. Out of 263 undertakings which replied to the questionnaire, 226 indicated that co-operation in some form had been their practice for several years. Opinion as to the practical usefulness of such co-operation was divided, but the majority of those who took part in the enquiry considered that the system had contributed directly to an increase in production in the undertakings.[2]

In a recent report, the Joint Committee on Labor-Management Relations of the 81st Congress of the United States praised the manner in which management and labour had learned to work together in the undertakings of the Tennessee Valley Authority to their mutual advantage and in the public interest. Joint production committees were set up in order to enable the workers to help in solving problems relating to job classification, output, vocational training, health and safety and strengthening of morale. The committees receive and give rewards for suggestions made with a view to improving the work; they have also organised and administer an apprenticeship programme and a pensions scheme.

In Canada, the number of joint committees has grown continuously in recent years. On 31 March 1949 there were 615 committees, representing approximately 275,000 workers, as against 542 on 31 December 1947.[3]

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[1] Agencies for co-operation in the undertaking have been instituted by legislation in the following countries: Austria, Belgium, Bulgaria, Czechoslovakia, Finland, France, Germany, Hungary, India, Luxembourg, Poland and Spain.

[2] Ernest DALE: "Increasing Productivity through Labor-Management Co-operation", in *Industrial and Labor Relations Review* (published by New York State School of Industrial and Labor Relations, Cornell University), Oct. 1949, p. 33.

[3] *Labour Gazette* (Ottawa), Vol. XLIX, No. 10, Oct. 1949, p. 1199.

In the United Kingdom, also, co-operation is entirely on a voluntary basis, but is developing at the same time at the national level, at the industrial level and at the level of the undertaking.

Workers' and employers' organisations are associated in the many institutions which study the different aspects of the problem of productivity, as, for instance, the National Production Advisory Council on Industry, the Committee on Industrial Productivity, the Advisory Council on Scientific Policy, etc.

Similarly, the bipartite National Joint Advisory Council continued, during 1949, to fulfil its role as an adviser to the Government. It has consistently urged the need to develop machinery for joint consultation in industry. Its efforts have been supported by the Minister of Labour at both the national and regional levels. The trade unions, also, have organised under their own auspices conferences concerning productivity. Committees were set up to examine the possibility of concluding agreements with the employers concerning the establishment of joint production committees. According to the report presented by the T.U.C. to the 1949 Congress, such committees have been set up under national agreements in about 30 industries employing 5,000,000 workers.[1]

Time studies and motion studies particularly have engaged the attention of those concerned. Such studies directly influence the determination of wages and especially wages paid on the basis of time employed. Undertaken unilaterally by the employer they are liable to result in conclusions which are considered arbitrary and, accordingly, are frequently criticised by the workers. Hence, in the United Kingdom, the Advisory Council on Scientific Policy recommended objective investigations in this field and associated employers' and workers' organisations in its action.

In Sweden, the problem of productivity was dealt with in an agreement concluded between the central organisations of employers and workers. Under the terms of this agreement, joint committees will be set up by collective agreement in the different economic branches to undertake time and motion studies and to settle disputes which might arise as a result of these experiments. Moreover, a national joint council is to co-ordinate the work of the committees and to promote a common policy in this field.[2]

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[1] *Trade Union Congress Report, 1949*, p. 195.

[2] Agreement concerning time and motion studies concluded by the Swedish Employers' Confederation and the Confederation of Swedish Trade Unions.

The joint production committees set up in Sweden in 1946 [1] will of course be associated in the same task, and all the more easily because they now exist in most of the larger industries; on 1 October 1949, it was estimated that there were about 2,000 of them.

Co-operation Established by Legislation

In order to place the policy of co-operation on a firm basis, the majority of countries have set up machinery for co-operation in the undertakings by means of legislation. Frequently, the law does no more than trace the general outline, while the actual establishment of committees progresses by successive stages.

This is so in the case of the Belgian Act of 20 September 1948 " respecting economic organisation ".[2] According to the regulations made pursuant to this Act during 1949, the elections to works committees must take place, respectively, within six months in the case of undertakings employing more than 200 workers, within eighteen months in those employing 100 to 200 workers, and within twenty-four months in undertakings employing from 50 to 100 workers.

In New Zealand, an Act of 16 August 1949 [3] authorised the Minister of Labour to make regulations setting up works committees. The Act does no more than lay down certain principles. The committees must be set up on a voluntary basis; they must represent employers and workers and have the function of promoting and maintaining harmonious industrial relations and reasonable conditions of welfare, safety and health of workers. The regulations will prescribe the functions of the committees and ensure that workers shall be paid their wages for time occupied in their activities as members of such committees.

In France, an Act of 2 August 1949 [4], promulgated in order to supplement the Ordinance of 1945 and the Act of 1946 [1], is intended to provide stable resources for works committees which have to manage the social services of the undertakings or to share in their management. Under the provisions of this Act, the annual contribution paid by the employer in order to finance the social services

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[1] See Report VIII (1), *op. cit.*, p. 136.
[2] See Report V (Supplement), *op. cit.*, p. 49.
[3] New Zealand Industrial Relations, 1949, No. 6: an Act to provide for the improvement of industrial relations, 16 Aug. 1949.
[4] *Journal officiel*, 4 Aug. 1949, No. 183, p. 7616.

of the works committee may not, in any event, be lower than the highest of the annual total sums, allocated to the social expenses of the undertaking, paid out during the last three years prior to the taking over of the social services by the works committee, excluding from such calculation temporary expenditure in respect of requirements which no longer exist.

The relationship of this contribution to the grand total of wages paid may not be less than the similar relationship existing in the year of reference defined above.

In Germany, a Law of the Control Council in 1946 [1] had authorised the establishment of works committees. Subsequently, the various *Länder*, once more in the tradition of the legislation existing before 1933, enacted legislation providing for the setting up of such committees entrusted with functions of a social and economic character. However, these latter provisions were suspended by order of the Military Government until such time as the Federal Constitution should define the respective competences of the Federal legislature and the legislatures of the *Länder*. The Government of the Federal Republic is at present preparing legislation on this question in order to co-ordinate the different measures taken in the *Länder*.

Finally, in China, the programme laid down in September 1949 [2] by the Chinese People's Political Consultative Council provides for setting up a system enabling the workers to participate in the administration of production in State undertakings. To give effect to this principle, works committees are to be set up under the leadership of the factory directors.

Co-operation at the National Level

The Office has also referred in earlier reports to the many steps which have been taken, either by agreement or by legislation, to associate employers' and workers' organisations in the economic and social policy of the different countries.[3]

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[1] See Report VIII (1), *op. cit.*, p. 136.

[2] *Industry and Labour*, Vol. III, No. 1, 1 Jan. 1950, p. 8.

[3] Bodies for economic and social consultation exist, in particular, in the following countries: Argentina, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Ceylon, Chile, China, Czechoslovakia, Denmark, Ecuador, Egypt, Federation of Malaya, Finland, France, Greece, Hungary, India, Iran, Luxembourg, Mexico, the Netherlands, New Zealand, Norway, Pakistan, Panama, the Philippines, Poland, Portugal, Sweden, Switzerland, Turkey, the United Kingdom, Venezuela.

Here again, reference will be made only to more recent developments.

The problem of establishing a permanent organ of co-operation has been discussed in Switzerland, since the expiry of the mandate of the joint committee for the stabilisation of prices and wages.[1] Set up in order to prevent monetary inflation, the committee ceased to function in October 1949, the danger of inflation having been practically obviated, largely owing to the services rendered by the committee.

The question arose whether the institution ought not to be preserved and the field of its activities broadened. The employers' organisations objected to the establishment of any permanent joint machinery, fearing that it might lead to planning and intervention by the State, and preferred that the groups concerned should be consulted directly and that the responsibilities of the public authorities, on the one hand, and those of the industrial organisations, on the other, should not be disturbed as they would be by the mere existence of a permanent committee whose opinions could hardly be ignored. They emphasised, however, their willingness to keep touch with the other groups and with the authorities—this being, moreover, provided for by the revised articles of the Federal Constitution—whenever concrete problems arose.[2]

The workers' organisations, on the other hand, were in favour of establishing a permanent body of a nature similar to the stabilisation committee, which would enjoy full independence and function on a purely voluntary basis.

Likewise, the Federal Council unanimously supported the proposal made by the competent Federal Councillor to preserve a joint agency, independent of the State, the structure of which would be adapted to its new mission. In his view, such a permanent institution, intervening at an appropriate time, would be able to prevent social and political tension.[3]

In Belgium, the Act of 20 September 1948 " respecting economic organisation " (analysed in the report submitted last year) [4] provided for the setting up of occupational councils, a National Labour Council, and a Central Economic Council.

The Central Economic Council was actually set up in 1949. The attitude of the various parties represented on the Council is

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[1] See p. 7.
[2] *Journal des Associations patronales suisses*, No. 51-52, 1949, p. 1089.
[3] *Basler Nachrichten*, 18 Jan. 1950, No. 26.
[4] See Report V (Supplement), *op. cit.*, p. 49-52.

illustrated by some passages in the speeches delivered on the occasion of its foundation.

Referring to the agreement concluded in 1947 between the central organisations of workers and employers, under the auspices of the National Labour Conference, the representative of the Federation of Belgian Industries stressed the importance of the new body in the following terms:

In all the fields of activity represented here today there are organisations which are perfectly competent to consider and solve their own problems and to propose to the public authorities solutions for such problems as cannot be settled unilaterally. The Central Economic Council must act at a much higher level. The problems we shall have to deal with here are of a general character and concern all branches of the national activity and all categories of workers who take part in it. It will enable us to contribute, on a non-partisan basis, to the preparation of the general economic policy as to major national and international questions.

In the view of the representative of the Confederation of Christian Trade Unions—

. . . the Council was the pivot of the new economic organisation—it had not only to respond to questions which were laid before it by various constituted bodies, but it also had the right to act on its own initiative. Constituted on a joint basis, it included, in addition to representatives of industry, commerce, and agriculture, consumers and workers, technicians who were specialised in the problems on which it would have to make its decisions. It could, therefore, count on the confidence of the groups represented on it, and, therefore, on the confidence of the whole population.

The representative of the Belgian General Confederation of Labour defined what those whom he represented understood to be the purpose of the Council as follows:

(1) to ensure maximum efficiency in national economic equipment;
(2) to direct economic activities to serve human ends.[1]

The functions conferred on the occupational councils provided for in the Act are at present being discharged by the joint committees. The joint general council, set up in 1944, has succeeded the old Higher Labour and Welfare Council and is temporarily assuming the functions of the National Labour Council, the establishment of which is prescribed by the Act of 1948. It has fulfilled an important role as adviser to the Government and to Parliament on social questions.

Whenever the executive or legislative authority adopted measures which had first been considered at length by those to whom they were

[1] *Revue du Travail*, Nov. 1949, p. 1168.

to be applied and regarding which, in the majority of cases, the latter had signified their agreement, one could feel assured that such measures were almost unanimously approved and were certainly applied successfully. Furthermore, as a result of the active co-operation of the most representative delegates of the actual persons concerned, the chief cause of major social disputes was generally eliminated.[1]

In New Zealand the Act of 16 August 1949, referred to above, also provides for the establishment of a national Industrial Advisory Council on which employers and workers will be represented. It has power to enquire into and make recommendations on the best ways and means of improving industrial relations and industrial welfare, either on its own initiative or at the request of the Minister of Labour. In particular, it has the function of examining problems concerning incentive payments, profit sharing, and other schemes calculated to increase productivity.

The Act also authorises the Minister of Labour to set up for a particular industry or locality joint councils with functions similar to those exercised by the Industrial Advisory Council.

In the United Kingdom, pursuant to the Industrial Organisation and Development Act of 31 July 1947[2], a Development Council for the clothing industry was set up in 1949 by order of the Minister. Other councils have been set up, following agreements between the parties concerned, and negotiations are at present in progress with a view to setting up such councils in industries where it has not yet been possible to do so.

In the continent of Asia, joint or tripartite advisory councils have recently been set up in a number of countries, for instance, in Burma, Ceylon, the Federation of Malaya, India, Japan and Pakistan.[3]

In Latin America a National Economic Council was set up by a Decree of 14 May 1949 in Bolivia, and a national Board for Economic Co-operation by a Decree of 16 August 1949 in Argentina. The new Board in Argentina is an advisory body of the National Economic Council set up under a Decree of 15 July 1947. It is intended to be a permanent agency for co-operation on which are represented the main branches of the economy as well as agricultural and industrial workers, commercial employees, the General Confederation of Labour and consumers.

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[1] *Revue du Travail*, Dec. 1949, p. 1282.
[2] See Report VIII (1), *op. cit.*, p. 161; Report V (Supplement), p. 53.
[3] For further details see Asian Regional Conference, Jan. 1950: *Report of the Director-General*, pp. 81 *et seq.* (Geneva, I.L.O., 1949).

The Economic Council may attach to the Board special committees with a view to increasing production, organising, developing, and rationalising trade and encouraging housing and building in general.[1]

In the countries of Central and Eastern Europe, workers' organisations participate actively in the application of economic plans [2], the targets of which cannot be exceeded, or even reached, except by a constant increase in productivity. Hence, Governments, as well as political and economic organisations, have made strenuous efforts in recent years to stimulate production by all possible means.

The part trade unions are called upon to play in this connection is of outstanding importance. Firstly, they are represented in the different bodies which are charged with examining problems relating to the organisation and scientific management of industry and the training and education of the workers; also, within their own trade union bodies, they examine all these questions.

By concluding collective agreements, the trade unions co-operate in fixing output standards in relation to which the pay of the different categories of workers is calculated. These standards must encourage the workers not only to carry out to the best of their ability the tasks assigned to them but, if possible, to exceed the standard output and so to co-operate directly in the implementation of economic plans.

It is also the function of the trade unions, and especially of their subordinate bodies, that is to say the works committees, to help in the systematic development of production. Accordingly, they organise and direct " socialist emulation " movements among the workers. They encourage and support the shock workers movement, endeavour to promote and reward suggestions by the workers with regard to organisation, rationalisation, prevention of waste, utilisation of resources, etc.

Furthermore, the workers must strictly observe labour discipline. Finally, the trade unions, through the medium of committees specially set up for that purpose, must supervise the application of all these legal provisions.

All these measures together are calculated to ensure the highest degree of productivity in the collective economy.

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[1] *Derecho del Trabajo*, Buenos Aires, Oct. 1949, p. 551.

[2] See Report VIII (1), *op. cit.*, p. 192; Report V (Supplement), pp. 58 *et seq.*

CHAPTER IV

PROPOSED CONCLUSIONS

A. COLLECTIVE AGREEMENTS

I

Proposed Form of the International Regulations

International regulations concerning collective agreements to be adopted in the form of a Recommendation.

II

Proposed Conclusions relating to a Recommendation concerning Collective Agreements

I. Collective Bargaining Machinery

1. *(a)* Appropriate machinery corresponding to the particular conditions existing in each country to be established, if necessary, which would be available to assist the parties in the conclusion, revision and renewal of collective agreements.

(b) The organisation, methods of operation and functions of such machinery to be determined by national regulations.

II. Definition of Collective Agreements

2. For the purpose of applying the international regulations, " collective agreements " to be understood to mean all agreements regarding terms and conditions of employment concluded between an employer, a group of employers or an employers' organisation on the one hand, and a workers' organisation on the other.

III. Effects of Collective Agreements

3. *(a)* Employers and workers bound by a collective agreement or who are members of the contracting organisations not to be

able to agree to include in individual contracts of employment stipulations contrary to those contained in the collective agreement.

(b) Stipulations in individual contracts which are contrary to the collective agreement to be null and void and automatically replaced by the corresponding stipulations of the collective agreement.

(c) However, stipulations in individual contracts which are more favourable to the workers than those prescribed by a collective agreement not to be deemed contrary to the collective agreement.

4. The stipulations of a collective agreement concluded between one or several employers on the one hand, and a workers' organisation representing the majority of the workers concerned on the other hand, to apply to all the workers in the service of the employer or employers bound by the collective agreement.

IV. Extension of Collective Agreements

5. National regulations, taking account of the particular conditions existing in each country, to prescribe appropriate measures to enable the benefit of collective agreements concluded by employers' and workers' organisations representing respectively a majority of the employers and workers to be extended to all the employers and workers engaged within the industrial and territorial scope of such agreements.

V. Interpretation of Collective Agreements

6. Disputes arising out of the interpretation or application of a collective agreement to be submitted to a procedure for settlement agreed to by the parties and, if this breaks down, to be referred to an appropriate compulsory procedure.

VI. Responsibilities of Employers' and Workers' Organisations Parties to Collective Agreements

7. *(a)* Employers' and workers' organisations parties to collective agreements to undertake to determine by agreement their respective obligations resulting from the application of such collective agreements.

(b) The legal regulation of such responsibility to be contemplated only in the absence of its regulation by agreement.

(c) National regulations to provide that such movable or immovable assets as are indispensable to the normal functioning of employers' and workers' organisations shall not be liable to distraint.

VII. Supervision of Application of Collective Agreements

8. *(a)* Employers' and workers' organisations parties to collective agreements to ensure supervision of the application of such collective agreements.

(b) In the absence of adequate supervision by the organisations concerned, labour inspectors or an inspectorate established *ad hoc* to be empowered to supervise the application of collective agreements.

B. VOLUNTARY CONCILIATION AND ARBITRATION

I

Proposed Form of the International Regulations

International regulations concerning voluntary conciliation and arbitration to be adopted in the form of a Recommendation.

II

Proposed Conclusions relating to a Recommendation concerning Voluntary Conciliation and Arbitration

I. Voluntary Conciliation

1. Voluntary conciliation authorities, having regard to the particular conditions existing in each country, to be established on a permanent basis and in sufficient number to enable them to offer their assistance to the parties in the prevention and settlement of collective industrial disputes.

2. *(a)* Voluntary conciliation authorities constituted on a joint basis to include equal numbers of representatives of organisations of employers and workers.

(b) The organisations of employers and workers concerned in a dispute to be associated in all stages of the procedure.

3. *(a)* The procedure to be free of charge and expeditious; the periods prescribed by the national regulations for examination of the dispute to be fixed in advance and kept to a minimum.

(b) Possibility of the procedure being set in motion, either *ex officio* by the voluntary conciliation authority, or on the initiative of any of the parties to the dispute.

4. If a dispute has been submitted to a conciliation authority with the consent of all the parties concerned, the latter to abstain from strikes and lockouts while conciliation is in progress.

5. Agreements which the parties may reach either during conciliation procedure, or as a result thereof, to be drawn up in writing and be treated, for all useful purposes, as freely concluded collective agreements.

II. Voluntary Arbitration

6. A permanent system of voluntary arbitration to be established to which the parties might have recourse in order to ensure a settlement of collective industrial disputes where the voluntary conciliation procedure has broken down.

7. If a dispute has been submitted to arbitration for final settlement with the consent of all the parties concerned, the latter to be required to accept the arbitration award.

C. CO-OPERATION AT THE LEVEL OF THE UNDERTAKING

I

Proposed Form of the International Regulations

International regulations concerning co-operation between employers and workers at the level of the undertaking to be adopted in the form of a Recommendation.

II

Proposed Conclusions relating to a Recommendation concerning Co-operation between Employers and Workers at the Level of the Undertaking

I. Establishment of Machinery for Co-operation

1. In order to ensure mutual consultation between the employer and his personnel with regard to all social or economic questions of common interest, appropriate measures to be taken to promote the establishment at the level of the undertaking of works committees, production committees, permanent staff delegations or similar machinery for co-operation.

II. Scope of the Regulations

2. Machinery for co-operation to be established in all industrial and commercial undertakings, public or private, in which the establishment of such machinery would contribute to the promotion of the objects indicated in Point 1.

III. Appointment of Representatives of the Personnel

3. *(a)* The representatives of the personnel on the committees or other bodies for co-operation to be elected by the whole of the workers in the undertaking by direct secret ballot, in accordance with the provisions laid down by national regulations.

(b) Where the machinery for co-operation is established by collective agreements, possibility of the representatives of the personnel being appointed by the workers' organisations concerned.

IV. Composition of Representative Bodies

4. The number of representatives of the personnel on the committees, etc., for co-operation to be determined with due regard to the number of personnel employed in the undertaking.

5. The different categories of persons employed in the undertaking—manual workers, salaried employees, technicians, etc.—to be represented on the committees, etc., for co-operation.

V. Working of the Machinery for Co-operation

6. The committees, etc., for co-operation to meet at regular intervals and whenever they have urgent questions to consider.

7. Appropriate action to be taken to secure collaboration between the machinery for co-operation in the undertaking and the occupational organisations of employers and workers concerned.

VI. Functions of the Machinery for Co-operation

8. The machinery for co-operation to have more particularly the following functions of a social character:

(a) to secure the application of collective agreements, social legislation and regulations regarding health and safety;

(b) to give an opinion regarding the engagement and discharge of employees;

(c) to promote the vocational training of the different categories of employees;

(d) to participate in the administration of social schemes for the welfare of the employees and their families; and

(e) in general, to promote a good understanding between the management and the personnel.

9. The machinery for co-operation to have more particularly the following functions of an economic character:

(a) to study any suggestion put forward by the management of the undertaking or by the personnel with the object of raising the level of production or improving the efficiency of the undertaking;

(b) to propose to the management of the undertaking the rewards to be granted to employees whose suggestions have been effectively applied;

(c) to study the methods of production used in the undertaking and to make proposals to the management of the undertaking regarding the best utilisation of its material and human resources; and

(d) to inform the personnel regarding the economic and technical situation of the undertaking, subject to the obligations laid down in Point 11.

VII. Obligations of the Management

10. The management of the undertaking to be required—

(a) to place at the disposal of the committees or other bodies for co-operation the premises, material, and, in appropriate cases, the staff essential to its meetings or indispensable for its secretariat;

(b) to allow to the representatives of the personnel the time required for performance of their functions and to remunerate them for this time as hours of work;

(c) to consult the said committees, etc., on questions concerning the organisation and general conduct of the undertaking;

(d) to inform the said committees, etc., at regular intervals, but at least once a year, regarding the activity of the undertaking and the plans for the coming twelve months.

VIII. Obligations of Representatives of the Personnel

11. The representatives of the personnel on the committees or other bodies for co-operation to be required, within the limits laid down by national legislation, not to disclose confidential information which may be communicated to them by the management.

12. The representatives of the personnel to be required to give an account of their activity to the whole personnel at regular intervals.

IX. Protection of Representatives of the Personnel

13. Appropriate action to be taken to ensure that the representatives of the personnel are adequately protected in the performance of their functions.

D. CO-OPERATION AT THE LEVEL OF THE INDUSTRY

I

Proposed Form of the International Regulations

International regulations concerning co-operation between public authorities and employers' and workers' organisations at the level of the industry to be adopted in the form of a Recommendation.

II

Proposed Conclusions relating to a Recommendation concerning Co-operation between Public Authorities and Employers' and Workers' Organisations at the Level of the Industry

I. Establishment of Machinery for Co-operation

1. Agencies for co-operation to be established on a permanent basis in the different branches of industry and commerce, either by agreement between the employers' and workers' organisations concerned or by legislation, for the purpose of examining the social, technical and economic problems of the branch of industry or commerce concerned.

2. Such agencies to be established at the national level or, if the needs of the branch of economy concerned so require, on a regional basis.

3. The employers' and workers' organisations concerned to be represented on an equal basis in the agencies for co-operation.

II. Functions of the Machinery for Co-operation

4. The agencies for co-operation to have more particularly the function of considering and proposing appropriate action—

(a) to raise the standard of life of the workers;

(b) to increase the level of production and efficiency of the branch of economy concerned.

5. The agencies for co-operation to have in addition the power to submit to the competent authorities opinions or recommendations on all questions of an economic or social character concerning the branch of economy in which they are established.

III. Co-operation in Nationalised Industries

6. Where certain branches of economy have been nationalised or established as public services, all appropriate action to be taken to ensure close and permanent co-operation between the authorities responsible for the administration of the nationalised industries and the workers' organisations concerned.

E. CO-OPERATION AT THE NATIONAL LEVEL

I

Proposed Form of the International Regulations

International regulations concerning co-operation between public authorities and employers' and workers' organisations at the national level to be adopted in the form of a Recommendation.

II

Proposed Conclusions relating to a Recommendation concerning Co-operation between Public Authorities and Employers' and Workers' Organisations at the National Level

I. Object of Co-operation

1. Appropriate action to be taken to associate employers' and workers' organisations in the preparation and implementation of economic and social measures of national scope.

II. Methods of Co-operation

2. The co-operation envisaged in Point 1 above to be secured by the following methods:

(a) consultation of the employers' and workers' organisations concerned;

(b) establishment of national advisory councils of a social and economic character such as, for example, national economic councils, national labour councils, etc.

III. Participation in the National Advisory Councils

3. The national advisory councils referred to in paragraph 2 of Point 2 above to include among their members equal numbers of employers' and workers' representatives either nominated directly by the employers' and workers' organisations concerned or appointed by the competent authorities on the basis of proposals from or after consultation with such organisations.

IV. Functions of National Advisory Councils

4. National advisory councils to have more particularly the functions—

(a) of studying social and economic problems falling within the terms of reference;

(b) of submitting their opinions and recommendations to the competent authorities.

V. Participation in Administration of Social Institutions

5. Appropriate action to be taken to associate employers' and workers' organisations in the administration of national institutions, such as those responsible for social security and welfare organisation of employment, industrial health and safety, labour protection, etc.